

1
2
3 AN ORDINANCE PRESCRIBING THE METHOD AND PROCEDURE TO BE FOLLOWED IN
4 MAKING PUBLIC IMPROVEMENTS AND PROVIDING FOR THE MAKING OF ASSESSMENTS
5 THEREFOR; PROVIDING FOR THE ENFORCEMENT AND COLLECTION OF SAID
6 ASSESSMENTS; AND FOR THE FORECLOSURE OF LIENS CREATED THEREBY.

7 THE CITY OF ELGIN DOES ORDAIN as follows:

8 Section 1: DEFINITIONS.

9 (1) "Local Improvement" means:

10 (a) The grading, graveling, paving or other surfacing of any street,
11 or opening, laying out, widening, extending, altering, changing the grade of
12 or constructing any street.

13 (b) The construction or reconstruction of sidewalks.

14 (c) The installation of ornamental street lights.

15 (d) The installation of underground wiring or related equipment.

16 (e) The reconstruction or repair of any street improvement mentioned
17 in this section.

18 (f) The construction, reconstruction or repair of any sanitary or storm
19 sewer or water main.

20 (g) The acquisition, establishment, construction or reconstruction of
21 any off-street motor vehicle parking facility.

22 (h) The construction, reconstruction or repair of any flood control dike
23 or dam.

24 (i) The construction, reconstruction, installation and equipping of a
25 park, playground or neighborhood recreation facility.

26 (j) Any other local improvement for which an assessment may be made on
27 the property specially benefited.

28 (2) "Council" means City Council of the City of Elgin.

29 (3) "Recorder" means the Recorder serving as clerk of the City or performing
30 the clerical work of the City.

1 (4) "Owner" means the owner of the title to real property or the contract
2 purchaser of real property, of record as shown on the last available complete assessment
3 rolls in the office of the County Assessor.

4 (5) "Lot" means lot, block or parcel of land.

5 Section 2: INITIATION OF LOCAL IMPROVEMENT. Whenever the City Council
6 shall desire a local improvement it shall pass a resolution, which designates the improve-
7 ment to which an assessment is contemplated and describes the boundaries of the district
8 to be assessed. The report shall contain a full description of the project and a
9 description of each lot specially benefited thereby, with the name of the owner of the lot.
10 The report shall further contain an estimate of the probable cost of such project, which
11 estimate shall include legal, administrative and engineering costs attributable to such
12 project, and a recommendation of a fair apportionment of the whole or any portion of the
13 cost of the project to the property specially benefited.

14 Section 3: METHOD OF ASSESSMENT.

15 (1) The City Council may:

16 (a) Use any just and reasonable method of determining the extent of any
17 improvement consistent with the benefits derived.

18 (b) Authorize payment by the City of Elgin of all or any part of the cost
19 of any such improvement, provided the method selected creates a reasonable
20 relation between the benefits derived by the property specially assessed and the
21 benefits derived by the City as a whole.

22 (c) Use any method of apportioning the sum to be assessed as is just and
23 reasonable between the properties determined to be specially benefited.

24 Section 4: NOTICE OF ASSESSMENT.

25 (1) Promptly after the filing of the report provided in Section 2, the City
26 Recorder shall prepare a notice and this notice shall provide as follows:

27 (a) That such report is on file in the City Recorder's Office and is subject
28 to examination.

29 (b) The estimated probable cost of such proposed improvement.

30 (c) A brief statement of the area proposed to be assessed therefor.

1 (d) A statement notifying all persons interested to present their objections
2 to said report, if any they have, before the City Council on a date specified in
3 such notice, not less than ten days after the date of the first publication, posting
4 or mailing, as hereinafter provided, of said notice.

5 (2) The City Council shall specify in a resolution providing for the said
6 improvement whether the notice provided for in this section shall be publish, mailed or
7 posted as herein provided. If the City Council shall declare notice be published, the
8 Recorder shall prepare the notice of publication containing the information above set
9 forth, together with the names of the record owners of the property and a description
10 thereof, either by street number or other legal description, and cause the said notice
11 to be published in a newspaper of general circulation, either daily or weekly, within
12 the City; that publication shall take place at least twice prior to the hearing provided
13 for herein.

14 (3) If the City Council shall determine to give notice by mailing, the City Recorder
15 shall prepare a notice containing the same information as provided for by published
16 notice, and this notice shall be deposited in the post office not less than ten (10) days
17 prior to the hearing directed to the owner of each lot proposed to be assessed.

18 (4) If the City Council shall determine to give notice by posting, the City
19 Recorder shall prepare a notice containing the same information as provided for by
20 published notice, and one copy thereof shall be posted in the City Hall and at least
21 two copies thereof shall be posted within the confines of the area where the proposed
22 improvement is to be carried out.

23 Section 5: HEARINGS.

24 (1) At the time scheduled in the notice, the City Council shall hear and consider
25 objections or remonstrances to the proposed improvement by any persons interested
26 therein. After the hearing, if the City Council finds such report to be reasonable and
27 just, it may adopt the same or amend it, and if amended, adopt the same by ordinance
28 embodying such report. The Council may require a supplementary or further report.

29 Section 6: ASSESSMENTS.

30 (1) After the estimated cost of the local improvement is ascertained on the basis

1 of the contract award or city departmental cost, or after the work is done and the cost
2 thereof has been actually determined, the Council shall determine whether the property
3 benefited shall bear all or a portion of the cost. The Recorder, or other person
4 designated by the Council, shall prepare the proposed assessment to the respective
5 lots within the assessment district and file it in the City Recorder's office.

6 (2) Notice of such proposed assessment shall be mailed or personally delivered to
7 the owner of each lot proposed to be assessed, which notice shall state the amounts of
8 assessments proposed on that property and shall fix a date, not less than ten (10) days
9 thereafter, for further hearing before the Council, at which time objections to the
10 proposed assessment may be made by the affected property owners. The Council shall
11 consider such objections and may adopt, correct, modify or revise the proposed
12 assessment, and shall determine the amount of assessment to be charged against each
13 lot within the district, according to the special and peculiar benefits accruing thereto
14 from the improvement, and shall by ordinance spread the assessments.

15 Section 7: NOTICE OF PROPOSED ASSESSMENT.

16 (1) Whenever a notice is required to be sent to the owner of a lot affected by
17 a proposed assessment, such notice shall be addressed to the owner or his agent. If
18 the address of the owner or of the owner's agent is unknown to the Recorder, he shall
19 mail the notice addressed to the owner or his agent at the city where such property is
20 located. Any mistake, error, omission or failure with respect to such mailing shall not
21 be jurisdictional or invalidate the assessment proceedings, but there shall be no fore-
22 closure or legal action to collect until notice has been given by personal service upon
23 the property owner, or, if personal service cannot be had, then by publication once a
24 week for two successive weeks in a newspaper of general circulation in the city where
25 such property is located.

26 Section 8: ASSESSMENTS BECOME LIENS.

27 (1) Assessments shall become a lien upon the property assessed from and after
28 the passage of the ordinance spreading the same and entry in appropriate city lien
29 records. The City may enforce collection of such assessments as provided by Oregon
30 Revised Statutes 223.505 to 223.650.

1 Section 9: REVIEW OF ASSESSMENTS.

2 (1) Owners of any property against which an assessment for local improvements
3 has been imposed may seek a review thereof under the provisions of Oregon Revised
4 Statutes 34.010 to 34.100.

5 Section 10: ALTERNATIVE METHODS OF FINANCING.

6 (1) Nothin herein contained shall preclude the City Council from using other
7 available means of financing improvements, including federal or state grants in aid,
8 sewer service or other types of service charges, revenue bonds, general obligation
9 bonds, or other legal means of finance. In the event any of such other means of
10 finance are used, the Council may, in its discretion, levy special assessments here-
11 under to cover any part of the cost of the improvement not covered by such means.

12 Section 11: MANNER OF DOING WORK.

13 (1) The Council shall provide by resolution the time and manner of doing the
14 work of such project, and may provide for the City to do the work itself, or may award
15 the work on contract. In the event that the work is done under contract, bids shall be
16 received after advertisement for such time as the Council may determine on all such
17 work, the estimated cost of which is more than \$1,000.00. The contract shall be let to
18 the lowest responsible bidder, provided that the Council shall have the right to reject
19 all bids when they are deemed unreasonable or unsatisfactory. The Council shall
20 provide for taking security by bond for the faithful performance of any contract let
21 under its authority, and the provisions thereof, in case of default, shall be enforced
22 by action in the name of the City of Elgin.

23 Section 12: DEFICIT ASSESSMENTS OR REFUNDS.

24 (1) If the initial assessment has been made on the basis of estimated cost, and
25 upon the completion of the work the cost is found to be greater than the estimated cost,
26 the Council may make a deficit assessment for the additional cost. Proposed assessments
27 upon the respective lots within the assessment district for the proportionate share of the
28 deficit shall be made; and notices shall be sent; opportunity for objection shall be given;
29 such objections shall be considered; and determination of the assessment against each
30 particular lot, block or parcel of land shall be made as in the case of the initial assess-

ment; and the deficit assessment spread by ordinance.

(2) If the assessments have been made on the basis of estimated cost, and upon completion the cost is found to be less than the estimated cost, the Council must ascertain and declare the same, and when so declared, it must be entered in the docket of city liens as a credit upon the appropriate assessment. If any such assessment has been paid, the person who paid the same, or his legal representative, shall be entitled to the payment of any portion of the rebate credit which exceeds the assessment by a check on the City Treasury.

Section 13: ABANDONMENT OF PROCEEDINGS.

(1) The City Council shall have full power and authority to abandon and rescind proceedings for projects hereunder at any time prior to the final consummation of such proceedings, and if liens have been assessed upon any property under this procedure, they shall be cancelled, and any payments made thereon shall be refunded to the payor, his assigns or legal representatives.

Section 14: CURATIVE PROVISIONS.

(1) Except as otherwise provided herein, no such assessment shall be invalid by reason of a failure to give in any report, in the proposed assessment, in the ordinance making the assessment, in the lien docket or elsewhere, the name of the owner of any lot or the name of any person having a lien upon or interest therein, or by a mistake in the name of any such person or in the entry of a name other than a name of such owner or other person having a lien upon or interest in such property, or by reason of an error, mistake, delay, omission, irregularity, or other act, jurisdictional or otherwise, in any of the proceedings or steps hereinbefore specified, unless it appears that reasonable notice had not been given of the hearing upon the proposed assessment or that the assessment may, insofar as it affects the person complaining, is unfair and unjust, and the Council shall have power and authority to remedy and correct all such matters by suitable actions and proceedings.

Section 15: BONDING OF LOCAL IMPROVEMENTS. The provisions of Oregon Revised Statutes 223.205 to 223.300, together with amendments or future amendments thereof, are hereby adopted and made a part hereof by reference.

1 PASSED and ADOPTED this 9 day of April, 1974, by _____
2 (4) Council persons voting therefor.

3 APPROVED this 9 day of April, 1974.

4 ATTEST:
5 *[Signature]*
6 *[Signature]*
7 City Recorder

Walter Stein
Mayor of the City of Elgin

106917 INDEXED

11 STATE OF OREGON }
12 County of Union }
13 I certify that the within instrument
14 of writing was received for record on
15 the 18th day of
16 NOV. 1982 at 8:30
17 o'clock A.M., and recorded on page
18 Deeds of said County.
19 SHIRLEY L. BOLIN County Clerk
20 Barbara C. Baker Deputy

MILLERS FALLS
ERASE
COTTON CONTENT